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# Role of Law and Social Stratification for *Online* Taxibike Consumer According to The Republic of Indonesia Law Number 8 1999 Considering Consumer Protection

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## ABSTRACT

**Purpose:** The role of law and social stratification for online taxi bike consumers regarding implementation Law No. 8 of 1999, using normative descriptive methods. The Law uncurtained concerning taxi bike position as a transportation mode. And since motorbike is likely uncommonly used public transportation. Not only for the taxi bike driver in general, but this issue is also addressed to Gojek driver since the main service of Gojek is using a motorbike as made of transportation

**Design/methodology/approach:** Regarding the after-mentioned issue, according to article 1 1 of Law No. 8 of 1999 on Consumer Protection (BFL) on 20 April 1999 (Indonesia, 1999) it is obvious that the relation of online taxi bike system is so relevant, observe by social stratification approach since it is hierarchically structured..

**Findings:** Thus causing a relationship between law and social stratification as are chain reactive it is stated within by the law. There is existing discrimination in public caused by social discrimination that can be legally overcome, and law guarantees equality for all

**Practical implications:** Further research can add samples and variable

**Originality/value:** This paper is original

**Paper type:** Research paper

**Keyword:** Consumer protection laws, Laws, Regulations minister of transport, Social stratification

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## I. INTRODUCTION

Transportation is one important part of life in society because, besides useful to facilitate everyday activities, transport also has an effect on economic growth and infrastructure in the region. Today more rapid advancement of science and technology also has an impact on the development of methods of service in the world of transport, one of which is the emergence of service-based taxi bikes online, or more known as a taxi bike online. This needs to be discussed how the role of law in a carriage on a motorcycle online, both in terms of safety for passengers and freight services online taxi bike, taxi bike fee arrangements online.

This is where the role of law in the government has issued two regulations related to online taxi bike namely the Minister of Transportation Regulation No. 12 of 2019 (Permenhub 12/2019) about User Safety Protection Used Motorcycles For Social Interests and Transportation Minister Decree No. 348 2019 (Kepmenhub 348/2019) Guidelines for Use of Services Cost Calculations Used Motorcycles for the Benefit Society Guide to the Application.

Permenhub No. 12 of 2019 aims to provide safety and security to be met by a driver and enterprise applications. As in article 2 which reads regulation is intended to provide safety protection for the use of motorcycles are used for the benefit of society made by and information technology-based applications without the application of information technology-based.

Included in the scope of regulation on Article 4 concerning the fulfillment of the safety aspects include the obligation for the driver to have a license to drive (SIM), driver in a healthy state, Driver does not carry passengers above one person and the driver has a driver's license and riding motorcycles should Letter Vehicle number (vehicle registration) Motorized valid.

While there is an obligation for enterprise applications as Article 5, paragraph 2, among others include the identity of the driver and passenger in the application, including a phone number of service complaints in the application, as well as completing the application features an emergency button (panic button).

Meanwhile, regarding the setting of guidelines for service fee-based online motorcycle itself is set in the Transportation Minister Decree No. 348 2019 (Kepmenhub 348/2019). The regulation specifies the cost of services the lower limit, upper limit, and minimal service costs. The restriction is done through the zoning system, there is a zone I, Zone II and Zone III.

For Zone, I cover an area of Sumatra and Java and the surroundings besides Jakarta, Bogor, Depok, Tangerang and Bekasi, and covers Bali. In the first zone of the cost of services, the lower limit is set at Rp 1,850 / km and a service fee upper limit of 2,300 / km. While minimal service fee is in the range of Rp 7,000 to Rp 10,000.

Zone II includes Jakarta, Bogor, Depok, Tangerang, and Bekasi. In zone II, the cost of services the lower limit is set at Rp 2,000 / km and a service fee upper limit of 2,500 / km. While the cost of services is in the range of at least US \$ 8000.00 up to USD 10,000.00.

Zone III covers an area of Kalimantan and Sulawesi and surrounding islands and surrounding Nusa Tenggara, Maluku Islands and surrounding, Papua and its surroundings. Ie, with the cost of services the lower limit is set at Rp 2,100 / km and a service fee upper limit of 2,600 / km. While the cost of services is in the range of at least US \$ 7000.00 up to USD 10,000.00.

So in both these regulations that Permenhub No. 12 of 2019 and No. 348 Kepmenhub 2019 have represented Ojek drivers online and consumers, in terms of legal certainty aspects, safety and regulates the standardization of online taxi bike driver to drive as well as the applicable rates. The focus is four, namely safety, service charges, suspend (sanction temporary cessation of operations), and partnerships.

Wendra Hardi, Ratna Syamsiar, and Siti Nurhasanah research with entitled *Perlindungan Hukum Terhadap Penumpang Jasa Angkutan Ojek Online Di Bandar Lampung* (Journal, 2018), The research found that the legal protection against online taxi bike passengers can be seen from the Go-jek the Company's efforts to give direction to the driver to bring the vehicle safely. If it still events that cause harm passengers the online taxi bike driver can be responsible for the loss, with this responsibility, the online taxi bike driver can recover its state law on the original.

While more intensive search by the title *Tanggung Jawab Perusahaan Transportasi Online Terhadap Penumpang Akibat Adanya Praktik Peralihan Akun Driver* (Fillaili, 2019). The research concluded legal protection for online transport passengers harmed by the practice of drivers account transition, the provision of insurance cover by the provider of transportation applications online to a passengers during the journey using the transport line.

Legal protection for passengers is also given through the Consumer Protection Act, to protect and fulfill the rights of consumers. The responsibility of the provider of transportation applications online to passengers harmed by the practice of transitioning accounts with their sanctioning driver gets dismissal (suspend) or disabling an account on driver who involved in the practice of driver's account transition. Efforts law dispute resolution for users of transport services online that impaired, can be done by suing for damages or criminally prosecute the account owner-driver online and/or on fake driver which has directly resulted in a loss to the consumer.

## **A. Issues**

Based From the description of this background, this article will discuss:

What are the role of law and social stratification for consumers Online taxi bikes by the Consumer Protection Act No. 8 of 1999?

## **B. Literature review**

The law may protect the rights and obligations of each individual in very real reality, with strong legal protection will manifest purpose of the law in general: order, security, tranquility, prosperity, peace, truth, and justice (Soedjadi, 1997) (Soedjadi, 1997). The meaning of the law is extremely diverse, depending on which angle they see it. Dutch law J. Van Kan defines the law as a whole provision of coercive life, which protects the

interests of people in the community. law by (Notohamidjojo, 1975) argues that the law is the overall rules of the written and unwritten usually forced to human society and between countries, which is oriented to the two principles of justice and efficiency, for the sake of order and peace in society.

Law is the source of power in the form of power and authority in the practice of power is negative for inducing power do exceed the limit, exceeding authority. Law without power is a chimera, power without the law is cruel. Legal closely linked to social and cultural values. A good law is a law that reflects the values that live in the community, the community change is inevitable and change itself into question the values of which are used (Kusumohamidjojo, 2007), In the change, there must be obstacles, among others: (a) the value that will be changed is still relevant to national identity, (b) the nature of heterogeneity in religions and faiths, (c) the attitude of people who do not accept the change and does not practice changes which exist.

Here is some understanding of the law according to legal experts from within the country, among others:

1. Legal sense according to Soerojo Wignjodipoero  
the law is the set of rules of life that contains a command and prohibition or permission to do or not do something, the law is coercive and to set the order in social life.
2. JCT Simorangkir, SH & Woerjono Sastroparnoto  
Rule of law is coercive and determine human behavior in a community environment created by official bodies authorities where such violations of rules will lead to certain penalties.
3. BC. Amin, SH  
Law is a collection of rules and norms that consists of overcome legal sanctions
4. MH Tirtaatmidjaja, SH  
The law is the norm all the rules that must be followed in the conduct of actions in the association must live with the threat indemnify if it violates the rules taken endanger yourself or treasure
5. Wirjono prodjodikoro  
Law is a series of rules regarding the behavior of people as members of a particular community
6. Prof. Achmad Ali  
A set of rules or the rules that are arranged in a system, which determines what is allowed and what is not can be by humans as citizens in public life, which comes from the community itself and from other sources, which recognized the enactment by the highest authority in the community, as well as was right things to do by the community (as a whole) in life and if the rules are violated will give authority to the supreme authority to impose external sanctions.
7. Prof. Soedikno Mertokusumo  
Overall collection of rules or principles in life together, the overall behavior of the regulations that apply in a life together, which can be forced to implement sanctions
8. Mochtar Kusumaatmadja  
Definition of adequate law should not only look at the law as a set of rules and principles which arrange human life in society but should also include institutions (institutions) and the necessary processes in the fact that the legal can manifest that
9. Abdulkadir Muhammad, SH  
All written and unwritten rules that have strict sanctions on violators
10. R. Soeroso SH  
The set of rules made by the authorities to arrange the social life that has the feature commanding and forbidding as well as have the nature of force to impose penal sanctions for those who violate

## II. DISCUSSION

### A. The role of the legal and social stratification for consumers Online Motorcycle taxi by the Consumer Protection Act No. 8 of 1999

Agency theory states that management and owners have different interest (Jensen and Meckling, 1976). Business that separate management and ownership functions will be vulnerable to agency conflict (Compton, 2001). In the agency model, a system constructs both parties. Consequently, working agreement is required between the owner (principal) and management (agent). The agreement is expected to maximize the utility of principals, be able to satisfy and guarantee agents to receive rewards from the business management activities. The difference in importance between the owner and management lies in maximizing the benefits (utility) of the owner (principal) with the constraints (utility) benefits (utility) and incentives that will be received by management (agent). In this case, different interests often arise conflicts of interest between shareholder (Soedjadi, 1997)s / owners (principal) and management (agent) Trucks and generally include land, water, and air transport where these three plays a very important and interrelated in performing the function as the

conveyance of people and goods. The activities of the transport are to move goods (commodity of goods) and passengers from one place (origin or port of call) to another (port of destination), thereby transporting produce transport services or production services to the people who need to transfer or delivery of goods. Transportation has the function of place and time is very important because the goods have more value in the destination than to be in place early people or goods are transported,

Nowadays people often use the services of transport in performing daily activities primarily on ground transportation. This can be seen with many types of public transportation in the region. One type of land transport is often used by the public is a taxi bike. Taxi bike is a means of land transport using two-wheeled vehicles to transport passengers from one place to the place and then get the paid.

According to the Dictionary of Indonesian taxi, the bike is a motorcycle used to carrying passengers who rent this vehicle. Taxi bike has become an alternative transport for most people because it is flexible in its activities, to reach the right of transit of public transport such as public transportation, bus or another type of four-wheeled public transport Others. A taxi bike is a public transport that is recognized in the community. The government never banned juridical existence although never specifically regulated on article reserved.

Law serves as the protection of human interests, law enforcement should pay attention 4 unsur:.

1. Legal certainty (rechtssicherheit)
2. Legal Use (zweckmassigkeit)
3. Legal justice (gerechtigkeid)
4. Legal guarantees (doelmatigkeit)

Law enforcement and justice should use the proper line of thinking with the evidence and the evidence for realizing justice or legal content must be determined by ethical convictions, whether or not a case is fair. Legal issues become apparent if the legal tools perform well and meet, keeping the rules that have been standardized so that no misuse of rules and laws that have been done systematically, meaning that it uses codification and unification of the law to achieve legal certainty and legal justice.

Law, as defined in the Act of 1945 on the system of government Indonesia, explained that Indonesia based on the law in the sense rechtstaat (Indonesia is a state based on law). The characteristics of rechtstaat concepts include:

1. The protection of Human Rights (HAM)
2. The separation and division of powers in state institutions to ensure the protection of Human Rights
3. Government by regulation
4. The existence of judicial administration

Law is a system of rules of human behavior, so the law does not refer to one single rule, but it could be called the unity rules that make up a system.

Legal Function outline is as set out below:

1. As a means of social control (a tool of social control).
2. As a means to change society (a tool of social engineering).
3. As a means of order and community settings.
4. As a means to achieve social justice and unseen.
5. As a means of propulsion development.
6. As a critical function within the law.
7. As shelter functions.
8. As a political tool

Law is a series of rules regarding the behavior of people as members of society. (Isnantiana, 2019).

Social stratification is a distinction or grouping of community members Vertically (stratified) social. Stratification can mean the structure, composition or shape. The arrangement can be Vertical or Horizontal

Social structures that function

1. Identity function, as a confirmation of identity which is owned by a group or as a differentiator from other groups.
2. Control functions, as the controller in themselves for not disobeying the norms, values, or other regulations in force in the community.
3. Learning function, as a learner to be able to interact in society starting from the attitudes, habits, beliefs, and discipline.

Social stratification is a phenomenon, group, community group or hierarchically. Social hierarchy is another name for the study of social stratification sociology of the social stratification connotes social inequality, inequality and unequal distribution of existing resources

Social stratification has always shaped hierarchy, some people occupy top positions, while others occupy a position under this condition is also called social hierarchy.

According to Melvin Tumin (Tumin, 1988) is a community group settings into the system hierarchy or rank unequal about property ownership power, social evaluation, and gratuities.

Social stratification is composed of two:

1. The ruling class, have power over the production factor
2. The working class, sell energy

Stratification approach:

- a. Approach to the conflict, and
- b. functional approach

Size or prominent or dominant criteria as the basis for the establishment of social stratification is as follows:

1. The Level of Wealthy (material or material)  
Used as benchmarks for placement of members of the public into the social layers that exist, can be seen from the shelter, objects owned tertiary, way of dress, as well as in shopping habits, as well as the ability to share with sesame
2. The Level of Power and authority  
Someone has the power authority and wealth can take the first place on the stratification layer. Most people have authority and wealth can dominate other community especially people with poverty.
3. The Level of Dignity  
The level of the dignity of someone can describe how their level of wealthiness. Some of people in that situation took the high level of stratification layer on society.
4. The Level of Knowledge  
The level of knowledge is often used by members of the public who appreciate science. A person who had the most knowledge will occupy the higher layers in the system of social stratification. Mastership of this education level is usually found in academic degrees (bachelor) or profession carried by a person, for example, a doctor or professional titles such as Professor.

Type of social stratification:

1. Slavery (Slaves were layer on the bottom, do not have freedom because of her status owned)
2. Feudalism consists of 3 layers
  - a. The highest layer is the nobility
  - b. The second layer is a religion/clergy
  - c. The lowest layer is the rabble
3. Caste is a system of stratification that are closed
4. Class is a system of social stratification that is open (Individuals can occupy the highest layer which succeeded in raising the social status)

The development of transport and communications can not be separated from innovation science and technology. It can be seen from the development of innovation, the more advanced and sophisticated modes of transport and communication also in society. One example of the latest innovations in the field of road transport is the emergence of online motorcycle types of Go-jek. Guided on the official website Go-jek, said Go-jek is defined as the word social spirit that led the industrial revolution Go-jek Ojek.2 transportation is a taxi bike booking services online via the Go-jek applications that can be downloaded via Android or iPhone.

Not only online taxi bikes, services provided Go-jek also includes Go-car, Go-food, Go-mart, and others. The presence of online motorcycle applying appropriate communication technologies in society due to the incorporation of the transport service with the sophistication of Internet technology so people can easy to deliver their order, rule of map, transportation costs, the destination location and the driver information that is a form of innovations in the world of shipping business.

Against the background of the above problems, making the legal uncertainty associated with the position of the taxi bike as transport of people because motorcycles are not included in the criteria of vehicles that can be used for public vehicles. Not only on a taxi bike driver in general, but this problem is also faced by the driver of the Go-jek for a major service to the Go-jek is the use of motorcycles as conveyance.

the relationship with the Law of Social Stratification Ojeks Chain Online:

- a. The Company is the top layer of the model because it has control of, access to, and Performance driver
- b. Passengers were the second layer of self-determination for the rating driver
- c. The driver is on the bottom layer.

evidently that the relations in the system are very relevant Online Ojeks seen with Social Stratification approach for structured hierarchically. whereas by a general explanation of the law No. 8 of 1999 on Consumer Protection (BFL) on April 20, 1999(Indonesia, 1999) :

Mentioned in Article 1:

1. Consumer protection is all the effort that guarantees the legal certainty to protect consumers.

2. Consumers are everyone user of goods and / or services available in the community, for the benefit of themselves, their families, other people, as well as other living beings and not for sale.
3. A business actor is any individual or entity, whether a legal entity and not a legal entity established and domiciled or conducting activities within the jurisdiction of the Republic of Indonesia, either individually or jointly by agreement for business activities in various economic fields.
4. Goods are any objects either tangible or intangible, whether movable or immovable, can be spent and cannot be spent, which can be traded, used, or used by consumers.
5. Services are any services that form of work or achievement provided for the public to be used by consumers.
6. Promotion is the introduction or dissemination activities of goods and/or services to attract consumers to buy the goods and / or services to be and is being traded.
7. Imports of goods activities to supply goods into the customs area.
8. Imports of services are the provision of foreign services to be used in the territory of the Republic of Indonesia.
9. Governmental Consumer Protection Agency is a non-governmental organization registered and recognized by the Government which has activities addressing consumer protection.
10. Clause Baku is any rules or the terms and conditions that have been prepared and determined in advance unilaterally by businesses outlined in a document and/or agreement that is binding and must be met by consumers.
11. Consumer Dispute Settlement Board is the body responsible for handling and resolving disputes between businesses and consumers.
12. National Consumer Protection Agency is a body set up to assist the development of consumer protection.
13. Minister is the minister whose scope of duties and responsibilities include the field of trade.

The rights of consumers need to be protected under Article 4 of Law No. 8 of 1999 on Consumer Protection includes:

1. the right to comfort, security, and safety in the consumption of goods and/or services;
2. the right to choose the goods and/or services and obtain goods and / or services under the exchange rate and conditions and guarantees promised;
3. the right to correct information, clear and honest about the condition and guarantee of the goods and / or services;
4. right to be heard opinions and complaints on the goods and / or services used;
5. right to advocacy, protection and dispute resolution efforts should consumer protection;
6. right to receive guidance and consumer education;
7. right to be treated or serviced properly and honestly and not discriminatory;
8. right to obtain compensation, compensation and/or reimbursement, if the goods and / or services received are not by the agreement or not as it should be;
9. the rights set out in the provisions of other legislation.

A principle in Article 2 of the Consumer Protection Act No. 8 of 1999: Consumer Protection Berasaskan consumer protection benefits, justice, equity, security and safety of consumers, as well as legal certainty.

### III. CONCLUSION

Based on the description that has been stated above, it can be concluded that the role of law and stratification social for consumers Online taxi bike has been by the Law on Consumer Protection No. 8 of 1999, seen from the common goal of safety protection for users of motorcycles between Permenhub number 12 in 2019 with Artikel Consumer Protection Act.

As for the stratification that the law promises equality before the law. One of the legal principles is equality before the law which means it is the position of everyone is equal before the law. the law does not distinguish status, rank, caste and social class. All equal before the law but stratification persists.

Therefore, between law and social reality, there was a gap commonly called the legal gap. There is a difference between what is supposed to happen according to the law with what is happening in society. During the public there is something that is appreciated, is by itself stratification will occur, measure or criterion prominent or dominant as the basis for the establishment of social stratification is a measure of wealth, power, and authority, honor and science, as well as relations in the system Online taxi bike very relevant views with Social Stratification approach for structured hierarchically.

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